

STATE LAND DEPARTMENT OF THE STATE OF ARIZONA
BEFORE THE STATE LAND COMMISSIONER

IN THE MATTER OF CLASSIFICATION OF)	ORDER NO. 078-2001/2002
STATE TRUST LANDS AS SUITABLE FOR)	
CONSERVATION PURPOSES UNDER A.R.S.)	COMMISSIONER'S ORDER
§ 37-312 FOR THE TRUST LAND DESCRIBED)	CLASSIFYING CERTAIN
AS:)	STATE TRUST LAND AS
)	SUITABLE FOR
)	CONSERVATION PURPOSES
(SEE ATTACHMENT A, B & C))	AND
)	DENYING CLASSIFICATION
)	OF CERTAIN OTHER
)	STATE TRUST LAND
PROJECT NAME: MC DOWELL,)	AS SUITABLE FOR
SONORAN PRESERVE)	CONSERVATION PURPOSES
)	
FILE NO. 35-104682)	
)	
PETITIONER: CITY OF SCOTTSDALE)	
)	

The records of the Arizona State Land Department reflect:

1. On January 7, 1999, the City of Scottsdale submitted a petition (File No. 35-104682) to the State Land Commissioner to nominate certain State Trust land as described in the petition as suitable for conservation purposes.
2. On October 16, 2000, the Commissioner designated the State Trust land described in State Land Commissioner's Order No. 014-00/01 as being under consideration for classification as suitable for conservation purposes in accordance with A.R.S. § 37-312.

BACKGROUND

A.R.S. § 37-312, Subsection H, contains 8 provisions which must be considered by the Commissioner before he takes action on the classification of the subject State Trust land as suitable for conservation purposes.

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6 **FINDINGS OF FACT**

7 1. THE COMMISSIONER SHALL CONSULT WITH THE GOVERNING
8 BODY OF ANY AFFECTED CITY, TOWN OR COUNTY, AND THE LOCAL
9 PLANNING AUTHORITIES.

10 The local government, the City of Scottsdale, is the petitioner. The State
11 Land Department has consulted with city staff during the API petition
12 review process. Other jurisdictions/agencies have submitted letters to the
13 Land Department indicating their general support of the petition.

14 2. THE COMMISSIONER SHALL CONSIDER RECOMMENDATIONS
15 OF THE CONSERVATION ADVISORY COMMITTEE.

16 a. The Conservation Advisory Committee is charged with providing
17 information and advice to the Department as to the suitability of
18 reclassification for conservation of petitioned lands relative to
19 certain criteria in A.A.C. R12-5-2502.

20 b. On May 29, 2001, the Conservation Advisory Committee met and
21 considered the public record and facts as presented to them in a
22 written report. At this meeting, they voted to recommend to the
23 Commissioner that the lands under petition be reclassified as
24 suitable for conservation purposes.

25 c. The Commissioner has considered the Conservation Advisory
26 Committee's recommendation.

27 3. THE COMMISSIONER SHALL CONSIDER ALL EVIDENCE AND
28 TESTIMONY THAT ARE SUBMITTED AT THE HEARING UNDER A.R.S. § 37-312,
SUBSECTION F.

a. On February 15, 2001, at 6:00 p.m., a legally noticed public
hearing was held at the Desert Canyon Middle School in North
Scottsdale concerning the requested reclass. Over 1,500 people
were in attendance.

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- b. At this hearing, representatives of the petitioner, as well as 74 other people, appeared and presented testimony. While the overwhelming oral testimony was in favor of reclassification, a large contingency of off-road enthusiasts were present at the hearing, many of whom spoke in opposition and voiced concerns regarding the potential closure of the lands to motorized vehicles.
- c. After the hearing, the public record remained open for a period of 30-days during which numerous letters, e-mails and petitions were received. While the majority are in favor of reclassification, the Department has also received opposing correspondence from off-road enthusiasts, and from individuals who oppose the City's plans to acquire their fee property, and from other interested parties.
- d. The Commissioner has considered all of the evidence and testimony received at the hearing and all of the correspondence received after the hearing.

4. THE COMMISSIONER SHALL CONSIDER THE PHYSICAL AND ECONOMIC IMPACTS THAT THE RECLASSIFICATION WOULD HAVE ON OTHER LANDS OWNED OR CONTROLLED BY THE CURRENT LESSEE AND THE PHYSICAL AND ECONOMIC IMPACTS ON THE LOCAL COMMUNITY.

- a. There are no long-term leases on the land. There are, however, existing right-of-way leases, but those represent pre-existing rights which will not be affected by reclassification. There are also existing Special Land Use Permits, but they do not carry any long-term rights and can be canceled with 30-day notice.
- b. The City of Scottsdale stated in its petition that a reclassification would: support the City's and the State's tourism industry; improve the quality of life and property values in the northeast Metro Area; maintain the ecological value of the land; and encourage business development opportunities and expansion. Aside from oral testimony, no studies or reports quantifying this claim were submitted, however, the Commissioner finds that the general applicability of the claim is probable.

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6
7 5. THE COMMISSIONER SHALL CONSIDER THE EXISTENCE OF
8 ANY HOLDING LEASE ON THE LANDS.

9 There is no holding lease on the land.

10
11 6. THE COMMISSIONER SHALL CONSIDER THE EXISTENCE OF
12 ANY PLANNING PERMIT ISSUED BY THE COMMISSIONER, UNDER THE
13 URBAN LANDS ACT.

14 There is no planning permit on the land.

15
16 7. THE COMMISSIONER SHALL CONSIDER THE AMOUNT OF
17 PROGRESS ON ANY DEVELOPMENT PLANS BEING COMPLETED FOR THE
18 LANDS UNDER THE URBAN LANDS ACT.

19 There are no development plans being completed under the Urban Lands
20 Act. In compliance with the Growing Smarter legislation, however, the
21 State Land Department is preparing a Conceptual Plan for the Trust
22 lands within the City of Scottsdale. The City of Scottsdale is also in the
23 process of updating their General Plan in conformance with ARS § 9-
24 461.05.

25
26 8. THE COMMISSIONER SHALL EVALUATE THE MINERAL
27 POTENTIAL OF THE LAND.

28 Geologic data suggests no potential for locatable minerals, no potential
for oil or gas, and no potential source material suitable for aggregate
production. Values for the existing granite boulders and decomposed
granite, however, should be considered in the appraisal of this property
prior to disposition.

OTHER CONSIDERATIONS

In addition to the eight statutory considerations that must be addressed by the
Commissioner, the Commissioner has reviewed and considered the following
information:

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- 6 a. Input was received from the following Land Department
7 Divisions/Sections: Range, Water Rights, Agriculture, Real Estate and
8 Minerals. Each report and map is included in File No. 35-104682.
- 9 b. The State Land Department's water rights report raised the issue of the
10 3,900 acre-feet of CAP M&I water that the State Land Department
11 transferred to the City of Scottsdale for use on State Trust lands within
12 Scottsdale's service area. This allocation is a very valuable Trust
13 resource.
- 14 c. Responses to the State Land Department's request for comment were
15 received from the Arizona State Historic Preservation Office, Arizona
16 Department of Game and Fish, Arizona Department of Transportation,
17 Arizona Department of Agriculture and the Arizona State Museum.
18 These letters are in File No. 35-104682.
- 19 d. Cave Creek Unified Schools submitted to the Department on July 16,
20 2001, a demographic, land use, and enrollment analysis for a 20-year
21 period. Based on the report's findings, the District will need three new
22 elementary schools by the year 2020. This analysis is in File No. 35-
23 104682.

24 CONCLUSIONS

- 25 A. In order to justify reclassifying lands and selling or leasing them under
26 the API, the Commissioner is required to show how such a
27 reclassification would benefit the Trust. The Commissioner must
28 consider that such sales or leases may limit the number of potential
bidders, and thereby reduce potential income to the Trust. While it can
be shown that land immediately adjoining secured open space sells at a
premium, the enhancement of value of land further from the open space
edge is more difficult to illustrate. In order to show that the land further
from the open space edge would also benefit from the reclassification, it

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would be prudent for the Commissioner to plan the adjacent potential land uses consistent with the character in surrounding areas, thereby ensuring that when these lands are sold or leased, they reflect the enhancement from the adjacent open space.

Acknowledging Scottsdale's stated desire to secure all of the 16,600 acres as open space, and given the Commissioner's duty to garner the true value for the land, the Commissioner should cooperate with Scottsdale leadership through the State's conceptual planning and the City's General Plan to adequately identify suitable land uses in the areas adjacent to the land identified in Attachment A, even though these areas may be eventually purchased or leased for conservation. In this way, the true value to the Trust can be realized. By reclassifying these acres, Scottsdale may apply to the State Parks Board for matching funds.

Based on the information available, a majority of the petitioned land meet the criteria of A.R.S. § 37-312. They provide open space, demonstrate unique scenic beauty, are covered with significant vegetation worthy of protection, provide good wildlife habitat and corridors leading into the Forest, have unique rock outcropping and geologic features, and provide high recreational values. The Trust would benefit by reclassifying these areas. For these reasons, it would be in the best interest of the Trust to ensure the conservation of certain lands, and it may require that a conservation patent restriction be attached to a sale to ensure that these lands are conserved by the eventual purchaser. These lands are identified in Attachment A.

- B. Additional lands have characteristics that warrant reclassification pursuant to the API. It would also appear not to be in the best interest of the Trust to patent restrict these parcels, which could limit bidding. The Commissioner again should cooperate with Scottsdale leaders to illustrate acceptable land uses on these properties, even though Scottsdale's stated goal is to acquire this land for conservation. The benefit to Scottsdale by reclassifying these lands is that they may seek matching grant funds through the State Parks Board to help fund the acquisition. The lands in this category are found in Attachment B.

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- C. Some features that clearly do not qualify for API reclassification, but are highly desired by the City of Scottsdale for conservation purposes, i.e. power line corridors and scenic corridors, may be incorporated into the draft conceptual plan and City General Plan. In addition, a disposition strategy should be developed in cooperation with Scottsdale to insure other areas are conserved. The lands in this category are identified in Attachment C.
- D. The approximate 3,543 acres described in Attachment C include land that has been disturbed, is adjacent to existing or platted development, does not provide an integral open space connection within the preserve, or does not possess significant conservation values.
- E. The State's Conceptual Plan will complement the areas reclassified as suitable for conservation. Incorporated into that plan will be such provisions as a scenic corridor buffer along Pima and Scottsdale Roads and that power line and wash corridors be used for open space and trail systems. Additional open space areas may be accommodated through sound planning practices.
- F. The State Land Department retains the right to authorize other compatible uses of the land.
- G. Per Commissioner's Order No. 061-95/96, new applications will not be accepted for land in T5N, R5E in Attachment C, until further Order of the State Land Commissioner.

ORDER

For the foregoing reasons, it is in the best interest of the Trust to reclassify those lands described in Attachments A and B (approximately 13,021 acres) as suitable for conservation purposes, and to deny reclassification of those lands described in Attachment C (approximately 3,543 acres) that are determined not suitable for conservation. Lands in Attachment A may be sold *with* deed restrictions, and land in Attachment B may be sold *without* deed restrictions.

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6 Therefore, IT IS THE ORDER OF THE STATE LAND COMMISSIONER that
7 the approximate 13,021 acre parcel of State Trust land described in both Attachments
8 A and B, are reclassified as SUITABLE FOR CONSERVATION PURPOSES, and that
9 the approximate 3,543 acres described in Attachment C are denied reclassification.

10 This Order is subject to amendment based on the City of Scottsdale's willingness
11 to work with the State Land Department to accommodate an enhancement of land
12 values in order to legally justify the extent of the reclassified acres.

13 No existing lease shall be canceled or modified as a result of this action.
14 Renewals of existing leases shall be pursuant to A.R.S. § 37-291.

15 Pursuant to A.R.S. § 37-215 and Arizona Administrative Code (AAC) R12-5-
16 202, if you are directly and adversely affected by this Order, you may request a hearing
17 within thirty (30) days of the date it was mailed to you. A request for a hearing must
18 be in writing and must state the specific action or actions of the Department which are
19 the basis of the hearing request, and the statute, rule, or other legal basis entitling you
20 to a hearing. Send your request to the State Land Department, Attention: Director
21 Operations Division, 1616 West Adams, Phoenix, AZ 85007. Pursuant to A.A.C. R12-
22 5-202(H), if you do not timely file a request for a hearing, the order of the
23 Commissioner shall be final and not subject to further review.

24 GIVEN under my hand and the official seal of the Arizona State Land
25 Department this 30 day of August , 2001.

26 (SEAL)

27 MICHAEL E. ANABLE
28 State Land Commissioner

By: 

29 Copy of the foregoing mailed\
30 delivered this 30 day of
31 August ,2001 to:

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6 Conservation Advisory Committee

7 Anne Coe
8 Art DeCabooter
9 Wes Gullett, Chairman
10 Cynthia Henry
11 Eneas Kane

12 Interested Parties

13 Maria Baier
14 Ken Quartermain
15 Joe Ewan
16 Jim Klinker
17 Katherine Behr
18 Doc Lane
19 Sue Hilderbrand, Arizona State Parks
20 Brian Marshall
21 Arizona Trail Riders

22 Carol Heltorf
23
24
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28

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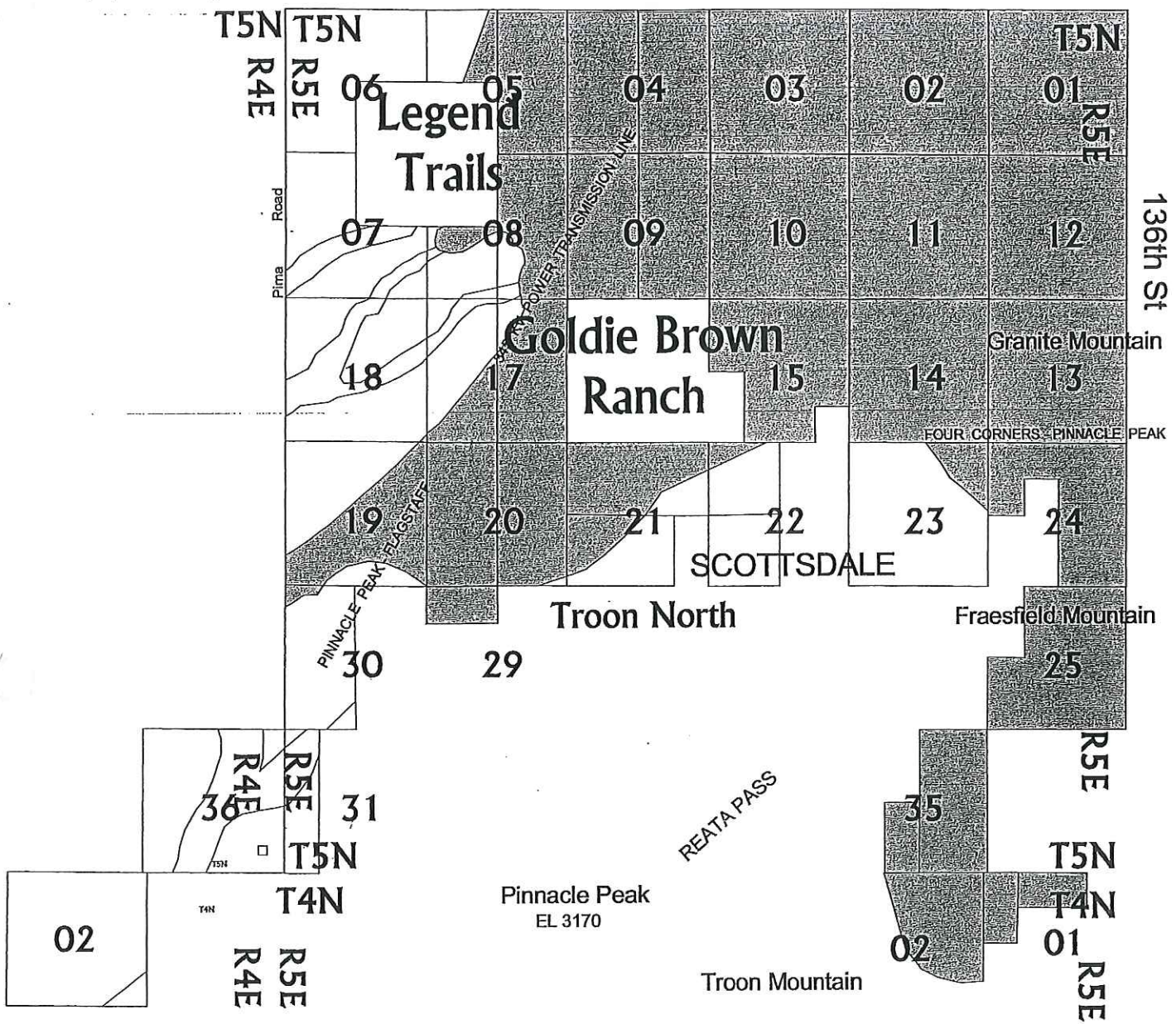
ATTACHMENT A

Land reclassified as suitable for conservation with possible patent restrictions:

LOTS 2, THRU 4, SWNW, SECTION 1, 151.54 ACRES;
LOTS 1 & 2, S2NE, M&B THRU LOT 3, SENW, NESW, N2SE, SECTION 2, 291.50
ACRES, TOWNSHIP 4 NORTH, RANGE 5 EAST, MARICOPA COUNTY,
ARIZONA.

LOTS 1 THRU 4, S2N2, S2, SECTION 1, 640.32 ACRES;
LOTS 1 THRU 4, S2N2, S2, SECTION 2, 640.48 ACRES;
LOTS 1 THRU 4, S2N2, S2, SECTION 3, 640.16 ACRES;
LOTS 1 THRU 4, S2N2, S2, SECTION 4, 640.64 ACRES;
LOT 1 & 2, S2NE, SE, M&B THRU LOTS 3, S2NW, SECTION 5, 371.12 ACRES;
NE, N2SE, SESE, M&B THRU N2SW, SWSE, SECTION 8, 320.00 ACRES;
ALL, SECTION 9, 640.00 ACRES;
ALL, SECTION 10, 640.00 ACRES;
ALL, SECTION 11, 640.00 ACRES;
ALL, SECTION 12, 640.00 ACRES;
ALL, SECTION 13, 640.00 ACRES;
ALL, SECTION 14, 640.00 ACRES;
N2, E2SW, N2SE, SWSE, SECTION 15, 520.00 ACRES;
E2NE, E2SW, SE, M&B THRU W2NE, SENW, W2SW, SECTION 17, 420.00 ACRES;
M&B THRU SESE, SECTION 18, 5.00 ACRES;
SENE, N2SE, M&B THRU LOTS 3 & 4, NENE, W2NE, E2SW, S2SE, SECTION 19,
340.00 ACRES;
ALL EXCEPT M&B IN SESE, SECTION 20, 630.00 ACRES;
NWNE, NW, M&B THRU NENE, S2NE, N2SW, SWSW, SECTION 21, 320.00
ACRES;
M&B THRU N2NW, SECTION 22, 40.00 ACRES;
M&B THRU NE, SECTION 23, 80.00 ACRES;
E2, N2NW, SWNW, SECTION 24, 440.00 ACRES;
NE, E2NW, S2, SECTION 25, 560.00 ACRES;
N2NW, SECTION 29, 80.00 ACRES;
M&B THRU LOT 1, SECTION 30, 20.00 ACRES;
E2, E2SW, SECTION 35, 400.00 ACRES, TOWNSHIP 5 NORTH, RANGE 5 EAST,
MARICOPA COUNTY, ARIZONA.

TOTAL: APPROXIMATELY 11,390.76 ACRES



City of Scottsdale - API Application for Attachment A



LEGEND

State Trust Land in API Petition: Approx. 16,600 acres



Reclassified with Patent Restrictions



Other State Trust Land in API Petition



Arizona State
Land Department

1825 W. Adams
Phoenix, Arizona 85019

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Ron Haeckler

Order No. 078-2001/2002

ATTACHMENT B

Land classified as suitable for reclassification possibly without patent restrictions:

M&B THRU SE, SECTION 2, 20.00 ACRES, TOWNSHIP 4 NORTH, RANGE 4 EAST, MARICOPA COUNTY, ARIZONA.

M&B THRU NE, SENW, SW, NWSE, SECTION 36, 160.00 ACRES, TOWNSHIP 5 NORTH, RANGE 4 EAST, MARICOPA COUNTY, ARIZONA.

M&B THRU LOTS 3 & 4, E2SW, N2SE, SESE, SECTION 7, 80.00 ACRES;

M&B THRU W2SW, SECTION 8, 20.00 ACRES;

M&B THRU NWNE, NW, SECTION 17, 60.00 ACRES;

M&B THRU LOTS 2 & 3, NE, SENW, SECTION 18, 145.00 ACRES;

M&B THRU SESE, SECTION 20, 10.00 ACRES;

W2SE, SESW, M&B THRU NENE, S2NE, N2SW, SWSW, SECTION 21, 240.00 ACRES;

SW, S2NW, M&B THRU N2NW, SECTION 22, 280.00 ACRES;



W2, SE, M&B THRU NE, SECTION 23, 560.00 ACRES;

M&B THRU LOT 4, SESW, SECTION 30, 20.00 ACRES;

M&B THRU LOTS 1 & 2, SECTION 31, 35.00 ACRES, TOWNSHIP 5 NORTH, RANGE 5 EAST, MARICOPA COUNTY, ARIZONA.

TOTAL: APPROXIMATELY 1,630 ACRES



 Reclassified without Patent Restrictions
 Other State Trust Land in API Petition



1216 W. 3rd Ave.
Troy, Mich. 48060 8(99)

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Order No. 078-2001/2002

ATTACHMENT C

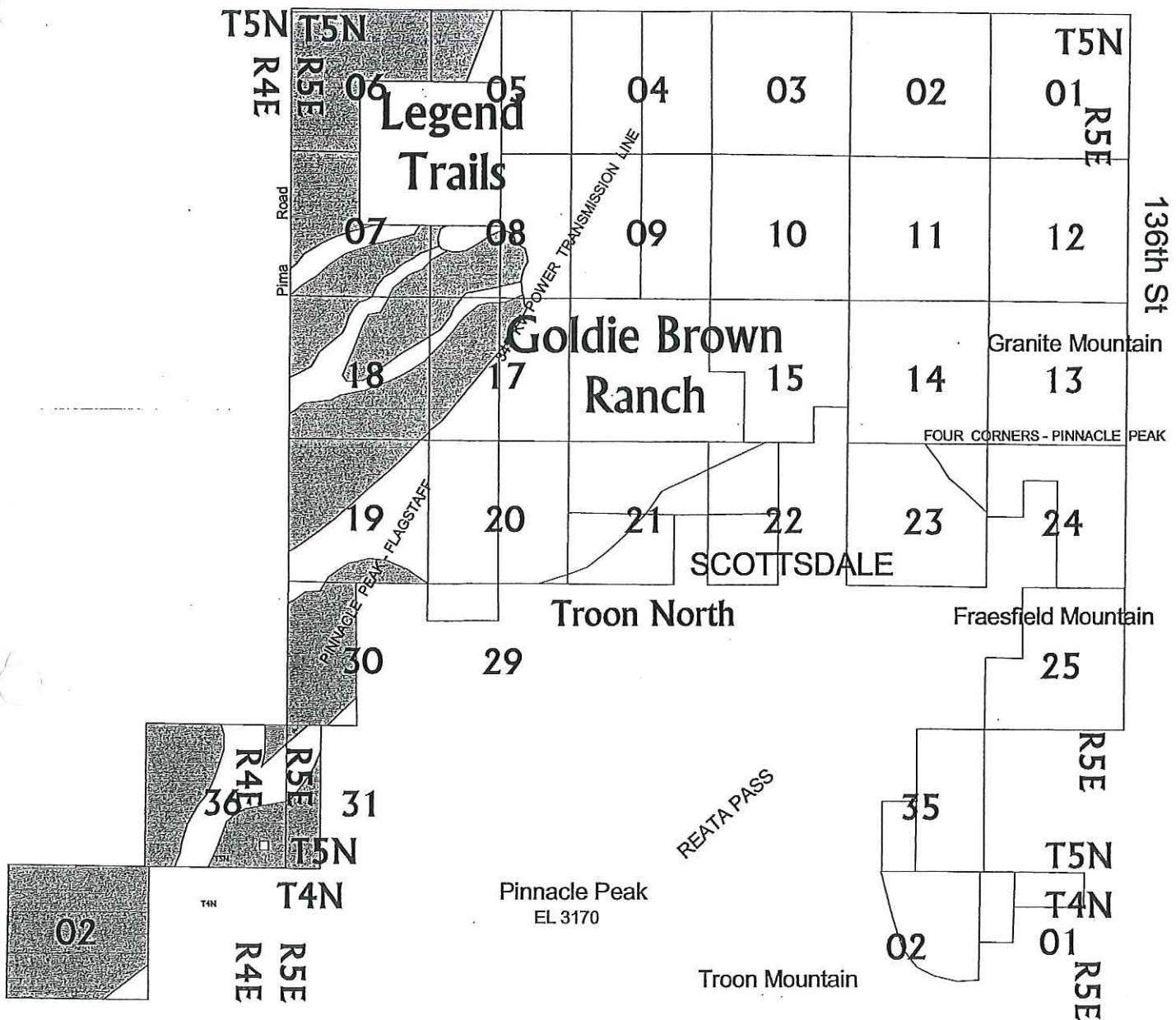
Land denied reclassification:

LOTS 1 THRU 4, S2N2, SW, M&B THRU SE, SECTION 2, 574.84 ACRES,
TOWNSHIP 4 NORTH, RANGE 4 EAST, MARICOPA COUNTY, ARIZONA.

N2NW, SWNW, NWSW, E2SE, SWSE, M&B THRU NE, SENW, NESW, S2SW,
NWSE, SECTION 36, 477.46 ACRES, TOWNSHIP 5 NORTH, RANGE 4
EAST, MARICOPA COUNTY, ARIZONA.

LOT 4, SWNW, M&B THRU LOTS 3, SENW, SECTION 5, 110.00 ACRES;
LOTS 1 THRU 7, S2NE, SENW, E2SW, SECTION 6, 479.65 ACRES;
LOTS 1 & 2, E2NW, SWSE, M&B THRU LOTS 3 & 4, E2SW, SE, SECTION 7,
398.89 ACRES;
M&B THRU SW, W2SE, SECTION 8, 140.00 ACRES;
M&B THRU W2NE, NW, W2SW, SECTION 17, 160.00 ACRES;
LOTS 1 & 4, SESW, N2SE, SWSE, M&B THRU LOTS 2 & 3, NE, E2NW, NESW,
SESE, SECTION 18, 495.08 ACRES;
LOTS 1 & 2, NENW, M&B THRU LOTS 3 & 4, N2NE, SWNE, SENW, E2SW, S2SE,
SECTION 19, 300.88 ACRES;
LOTS 2 & 3, SENW, NESW, M&B THRU LOTS 1 & 4, NENW, SESW, SECTION
30, 281.12 ACRES;
LOTS 3 & 4, M&B THRU LOTS 1 & 2, SECTION 31, 125.17 ACRES, TOWNSHIP
5 NORTH, RANGE 5 EAST, MARICOPA COUNTY, ARIZONA.

TOTAL: APPROXIMATELY 3,543.09 ACRES



City of Scottsdale - API Application for Attachment C

LEGEND

State Trust Land in API Petition: Approx. 16,600 acres



Denied Reclassification



Other State Trust Land in API Petition



**Arizona State
Land Department**

1111 W. 34th Ave.
Phoenix, Arizona 85018



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Ron Huettner